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tain an action against the committee selling the bonds to another, without first obtaining a reassignment of the contract from the third person, not appearing in the action, and not served with process; the committee and the third person refusing to reassign not acting in concert.

[Ed. Note.—For other cases, see Assignments, Cent. Dig. §§ 189-191; Dec. Dig. § 117;* Parties, Cent. Dig. § 8. 1 Va.-W. Va. Enc. Dig. 775, 789.]

3. Equity (§ 94*)—"Necessary Parties"—Who Are.—All persons who are interested in the subject-matter of a suit, and who will be affected by the results thereof, are "necessary parties."

[Ed. Note.—For other cases, see Equity, Cent. Dig. § 252; Dec. Dig. § 94.*

For other definitions, see Words and Phrases, vol. 5, pp. 4720, 4721. 10 Va.-W. Va. Enc. Dig. 736.]

4. Cancellation of Instruments (§ 3*)—Right to Relief.—To justify a rescission of a contract, the facts must show that plaintiff is entitled in equity to the relief, and the court must be able substantially to restore the parties to the position which they occupied before they entered into the contract.

[Ed. Note.—For other cases, see Cancellation of Instruments, Cent. Dig. §§ 1, 5; Dec. Dig. § 3.* 11 Va.-W. Va. Enc. Dig. 887, 894.]

5. Assignments (§ 129*)—Actions—Necessary Parties.—A committee of holders of corporate bonds contracted to sell the bonds on specified terms to a third person, who assigned the contract to an assignee, paying a valuable consideration, and acquiring the absolute title to the contract. The third person subsequently recognized the assignment. The committee sold the bonds to another. Held that, in an action by the third person against the committee for damages for making the sale, the assignee was a necessary party, without whose presence justice could not be done to the committee.

[Ed. Note.—For other cases, see Assignments, Cent. Dig. § 219; Dec. Dig. § 129.* 1 Va.-W. Va. Enc. Dig. 795.]

Appeal from Law and Chancery Court of City of Norfolk.

Suit by A. L. Sweeney against S. L. Foster and others. From a decree of dismissal, complainant appeals. Affirmed.

Wm. L. Royall, for appellant.

D. Lawrence Groner and Tazwell Taylor, for appellees.

CARTER v. KEETON & COLEMAN et al.

June 8, 1911.

[71-S. E. 554.]

1. Mechanics' Liens (§ 58*)—Consent of Owner—Authority to Contract—Tenant.—A tenant in possession has no authority to make

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

repairs or cause improvements on the leased premises which will subject the owner's interest to a mechanic's lien.

[Ed. Note.—For other cases, see *Mechanics' Liens*, Cent. Dig. §§ 72, 73; Dec. Dig. § 58.* 9 Va.-W. Va. Enc. Dig. 160.]

2. Mechanics' Liens (§ 58*)—Consent of Owner—Necessity for Consent of Owner—Improvements by Tenant.—Under Code 1904, § 2475, which provides that for repairs only no lien shall attach unless ordered by the owner or his agent, and section 2483, which provides that, where a person causing a building to be erected or repaired owns less than a fee-simple estate in the land, his interest alone shall be subjected to a mechanic's lien, the landlord's reversion is not subject to a mechanic's lien for improvements and repairs made under a contract with the tenant in his individual capacity, unless the repairs were ordered by the tenant as agent for the landlord, and the landlord ratified the act of the tenant.

[Ed. Note.—For other cases, see *Mechanics' Liens*, Cent. Dig. §§ 72, 73; Dec. Dig. § 58.* 9 Va.-W. Va. Enc. Dig. 761.]

3. Mechanics' Liens (§ 72*)—Operation and Effect—Interests Affected—Landlord's Reversion.—Labor and materials were furnished by plaintiffs in repairs and improvements on premises in possession of defendant's tenant under a contract with the tenant, with constructive notice to plaintiffs of the landlord's reversionary interests, and on the tenant's assurance that he, the tenant, would pay them. The landlord had no notice that the work was being performed, and did nothing to mislead plaintiffs as to the ownership of the land. Held, that under Code 1904, § 2483, which provides that, where a person causing a building to be erected or repaired owns less than the fee simple, his interest alone shall be subjected to such lien, the landlord's reversion was not subject to a lien.

[Ed. Note.—For other cases, see *Mechanics' Liens*, Cent. Dig. § 86; Dec. Dig. § 72.* 9 Va.-W. Va. Enc. Dig. 761.]

4. Mechanics' Liens (§ 309*)—Review—Directing Judgment—Personal Judgment.—A suit to enforce a mechanic's lien being in equity, the court may, on reversing a decree against a landlord, direct a personal decree against the tenant for the amount ascertained to be due plaintiffs for labor and materials furnished under contract with the tenant individually, as ascertained by the report of a commissioner.

[Ed. Note.—For other cases, see *Mechanics' Liens*, Dec. Dig. § 309.* 14 Va.-W. Va. Enc. Dig. 708.]

Appeal from Circuit Court, Pittsylvania County.

Action by Keeton & Coleman and others against Mollie A. Carter. Judgment for plaintiffs, and defendant appeals. Reversed.

Geo. T. Rison, for appellant.

Wm. Leigh and *B. H. Custer*, for appellees.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.